

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of

Doris, et al.

Serial No.: 10/710,272

Group Art Unit: 2895

Filed: June 30, 2004

Examiner: Tsai, H.

For: METHOD AND STRUCTURE FOR STRAINED FINFET DEVICES

Commissioner of Patents
Alexanderia, VA 22313-1450

APPELLANTS' REPLY BRIEF ON APPEAL

Sir:

Appellants respectfully reply herein to the Examiner's Answer mailed on July 7, 2010, and particularly to the Examiner's new arguments raised on page 13 and on page 38, which new argument on page 13 mischaracterizes the description of the present invention and appears to be the key issue in the rejections of record.

On page 13 of the Answer, the Examiner alleges that paragraph [0032] of the present application teaches a structure similar to that shown in Figures 10D-10E of primary reference Currie, particularly relative to regions 144, 148 in Currie.

Appellants expressly traverse the Examiner's finding of fact relative to Figure 10D-10E of Currie compared to the description related to paragraph [0032] of the present application, since paragraph [0032] does not even mention the stressors 601 embedded locally within fin connectors 302 (Figure 6) or the stressors 701 embedded locally within fin connectors 302 (Figure 7) of the present application. Rather, paragraph [0033] clearly describes the region 601 in the fin connectors 302 as being etched and then filled with compressive material to form the localized stressors 601 shown in Figure 6. Paragraph [0035] clearly describes the corresponding nFinFET device, wherein fin connectors 302 are similarly etched out so that localized stressors 701 are then embedded within the fin connectors 302.

Currie does not demonstrate a structure corresponding to Figures 6 and 7 of the present application having a localized stressor 601/701 formed within an interior portion of a fin connector 302 of a finFET, as required by the plain meaning of the language of the

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independent claims. The rejections of record are, therefore, improperly based entirely upon the Examiner's incorrect identifications of structures in primary reference Currie, along with an attempt to take words out-of-context in the present application. Nor does the Examiner provide any reasonable rationale to convert Currie into a structure that satisfies the plain meaning of the language of the independent claims.

That is, without having a reasonably similar correspondence in structure between Figures 10D-10E of Currie with Figures 6 and 7 of the present application, the claimed invention is clearly not a predictable variation" of Currie, as the Examiner alleges in a new argument on page 38 of the Answer. Similarly, since none of the cited references even suggests placing a localized stressor within a fin connector, there is no basis for the Examiner's new "obvious to try" argument on page 38, since this location for a localized stressor was not known in the art before the present invention.

For these reasons, in combination with Appellants's responses in their Appeal Brief, the claimed invention is clearly patentable over Currie, and the Board is respectfully requested to reverse all rejections based on Currie.

Please charge any deficiencies and/or credit any overpayments necessary to enter this paper to Assignee's Deposit Account number 09-0458.

Respectfully submitted,



Dated: September 7, 2010

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